IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O. O. C. J.

NOTICE OF MOTION NO.3775 OF 2007
IN
SUIT NO.2784 OF 2007

Bombay Rayon Clothing Ltd. and another ..Plaintiffs.
Vs.
Palghar Rolling Mills Pvt. Ltd. and others ..Defendants.

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Mr. N.A. Modi with Mr. Rahul Narichania and Ms. Preeti Shah for the Plaintiffs.

Mr. V.A. Thorat, Senior Advocate i/b Mr. R.V. Govilkar for Defendant Nos.1 and 2.

Mr. V.V. Khemka for Defendant No.26.

Mr. P.M. Rustomkhan for Defendant No.28.

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CORAM: **DR. D.Y. CHANDRACHUD, J.**

11th December, 2007.

P.C. :

In paragraphs 9.1 and 9.2 of the affidavit filed on behalf of the First Defendant by its Managing Director, who is the Second Defendant, it has been stated that in Suit 1313 of 1991 filed by the Bank of Baroda (since transferred to the Debt Recovery Tribunal), the Court Receiver was appointed as Receiver of the properties of the First Defendant. It is common ground that the Receiver has been appointed inter alia in respect of the property which forms the

subject matter of the present suit. In view of the fact that the property is custodia legis, counsel appearing for the First and the Second Defendants states that there would be no occasion for the First and Second Defendants to create any further third party rights other than those that were created prior to the date of appointment of the Receiver, and apart from what is stated in paragraphs 9.14, 9.15 and 9.16 of the affidavit in reply. Counsel appearing for the First and Second Defendants states that in the event that the order appointing the Court Receiver as Receiver of the property forming the subject matter of the dispute comes to an end, the Plaintiffs shall be informed forthwith and for a period of four weeks from the date of intimation, no further third party rights shall be created with a view to enable the Plaintiffs to seek recourse to their remedies in accordance with law. Since the Court Receiver is in possession of the property and the property is custodia legis, no further orders are necessary on this Notice of Motion which is permitted on the request of counsel for the Plaintiffs to be withdrawn with liberty reserved to the Plaintiffs to adopt fresh proceedings for interlocutory relief should the need arise in future.